

IN THE CIRCUIT COURT FOR THE TWENTY FIRST
JUDICIAL DISTRICT OF TENNESSEE, WILLIAMSON COUNTY

TIMOTHY J. PAGLIARA,

Plaintiff,

v.

DANIEL R. TRECCIA,

Defendant.

Case No. _____
JURY DEMAND

COMPLAINT

The Plaintiff, Timothy J. Pagliara, for his complaint against Defendant, Daniel R. Treccia, states as follows:

INTRODUCTION

1. This is a defamation and false light case.
2. Mr. Pagliara is an investment advisor and founder of Franklin-based CapWealth Advisors, LLC (CapWealth"). In 2022, Forbes magazine recognized Mr. Pagliara as the No. 1 financial advisor in the state of Tennessee for the third year in a row. Mr. Pagliara first received this honor in 2018, when Barron's magazine likewise named him the No. 1 financial advisor in Tennessee.
3. On June 17, 2024, the defendant, Daniel R. Treccia, a resident of Illinois, posted on his Twitter account numerous maliciously false and defamatory statements regarding Mr. Pagliara and CapWealth. When Mr. Pagliara objected to the false statements, Mr. Treccia responded, "Sue me."

4. Because defendant has refused either to correct or remove his false and defamatory statements, plaintiff brings this action to recover appropriate injunctive and monetary relief, including compensatory and punitive damages.

PARTIES AND JURISDICTION

5. The plaintiff, Timothy J. Pagliara, lives and works in Franklin, Williamson County, Tennessee. CapWealth, the wealth management firm Mr. Pagliara founded, is based in Franklin, Tennessee.

6. The defendant, Daniel Treccia, resides at 432 Lewis Road, Geneva, Kane County, Illinois, 60134-4414. Treccia is the manager and a member of Stankonia Capital LLC, an Arizona limited liability company.

7. Venue is proper in Williamson County, Tennessee because defendant's statements about Mr. Pagliara have caused injury to Mr. Pagliara in Williamson County, Tennessee.

8. This Court has subject matter jurisdiction of this action pursuant to Tenn. Code Ann. § 16-11-102.

9. This Court has personal jurisdiction over the defendant pursuant to Tennessee's long arm statute, Tenn. Code Ann. § 20-2-214(a), and *Calder v. Jones*, 465 U.S. 783 (1984)

FACTS

10. Mr. Pagliara is an investment advisor representative of CapWealth Advisors, LLC, a privately held wealth management firm he founded and for which

he currently serves as Chief Investment Officer. CapWealth is a registered investment advisor with the Securities and Exchange Commission (the “SEC”).

11. CapWealth provides investment management services to clients of all stripes: teachers, firefighters, entrepreneurs, bankers, legal and accounting professionals, small business owners, business executives, and others. In total, CapWealth has approximately \$1.42 Billion in assets under management for its clients.

12. On February 9, 2018, the SEC launched its Share Class Selection Disclosure Initiative (“SCSD Initiative”), a nationwide initiative in which the SEC claimed that investment advisers across the United States had failed to make required disclosures concerning the selection of mutual fund share classes that paid the adviser or its related entities or individuals a fee pursuant to Rule 12b-1 of the Investment Company Act of 1940 (“12b-1” fee) when a lower-cost share class for the same fund was available to clients.

13. Many of the investment advisers the SEC charged with violation of the anti-fraud provisions of the Investment Adviser’s Act of 1940 are household names, including Wells Fargo Advisors Financial Network LLC, Raymond James Financial Services Advisors, Inc., Robert W. Baird & Co. Incorporated, Oppenheimer & Co. Inc., NBC Securities, Deutsche Bank Securities, Inc., J.J.B. Hilliard, W.L. Lyons LLC, among others.

14. In all, the SEC brought charges against more than 100 investment advisory firms across the country and obtained settlements or judgments totaling in excess of \$150 million.

15. The SEC brought the same 12b-1 charges against Mr. Pagliara and CapWealth. But because they had done nothing wrong, rather than settle the charges, Mr. Pagliara and CapWealth chose to fight the charges.

16. On November 1, 2022, after a two-week trial, a federal court in Nashville fully exonerated Mr. Pagliara and CapWealth on each and every charge the SEC brought against them. A true and accurate copy of the Jury Verdict Form in that case is attached as Exhibit 1. The Judgment filed in favor of Mr. Pagliara and CapWealth is attached as Exhibit 2.

17. On June 19, 2024, for reasons known only to himself, the defendant Daniel R. Treccia took to Twitter and wrote that the “SEC charges of 2 counts of fraud” were never “wiped off, just a third appeal.” Treccia continued his unhinged rant stating that Mr. Pagliara convinced the Court to “throw out” the charges “because the SEC's victims of Pagliara and co didn't state the amount of \$ basically they were specifically overcharged even though two courts had found in favor of the SEC's fraud claims.”

18. Not a syllable of what Treccia wrote is accurate. First, the charges were “wiped off.” A federal court jury unanimously rejected each and every charge against Mr. Pagliara and CapWealth after a two-week trial. The jury found that Mr. Pagliara and CapWealth had not defrauded anyone. Second, there was no “third

appeal.” The verdict and the judgment the federal court filed thereon were never appealed. There was not a first appeal, a second appeal, or a third appeal.

19. Further, Mr. Pagliara did not convince the federal court to “throw out” the charges. The jury exonerated Mr. Pagliara and CapWealth on all counts, and the court entered Judgment based upon the jury’s verdict. Likewise, Treccia’s statement that “two courts had found in favor of the SEC’s fraud claims” is a malicious lie. No court anywhere ever found in favor of the claims the SEC brought against Mr. Pagliara and CapWealth.

20. Treccia continued his January 19 rant writing:

My friends as I stated are WALL STREET level players. I can prove that if you f-----g want too. But I also am just sending my own legal all of the harassment by proxy - and people like you who claim I'm attacking people when I have the g—d--- SEC charges and explanation of how this guy advertises himself and overcharged \$400K of fees from clients and on third appeal got off bc they couldn't state the claim on a technicality. Good for them the charges are there because he did not get cleared of his fraud charges.

21. Each of Treccia’s statements is knowingly and intentionally false. First, Mr. Pagliara did not “overcharge” his clients \$400,000 in fees. The jury expressly rejected the SEC’s claim that any overcharge occurred. Second, Treccia again falsely states that Mr. Pagliara “got off” on the “third appeal.” This is a delusionally false statement. There was no appeal, much less a “third appeal.” Third, Treccia states that Mr. Pagliara “did not get cleared of his fraud charges.” This too is a blatantly false statement. The federal court and federal jury cleared Mr. Pagliara of all fraud charges.

22. In attempting to justify his malicious posts, Traccia explained, “All I’m doing is sharing a guy who lies about what he does and has been SEC charged with basically lying to people “advised” and he lies about managing assets he does not. Let alone \$1.4B.”

23. These statements are also false and defamatory. Mr. Pagliara does not “lie” to anyone about “what he does.” He is an investment advisor representative of an SEC-registered RIA, CapWealth Advisors, LLC. Treccia’s further statement that CapWealth does not have \$1.4 billion in assets under management (“AUM”) is also false. As CapWealth’s Form ADV filings with the SEC accurately state, the firm does in fact have approximately \$1.4 billion in assets under management.

LEGAL CLAIMS

COUNT I: DEFAMATION

24. Plaintiff hereby incorporates by reference the averments set forth in numbered paragraphs 1 through 23 as fully as if set out verbatim.

25. Defendant Daniel Treccia published a statement about Mr. Pagliara that is defamatory.

26. In publishing his defamatory statements about Mr. Pagliara, Treccia acted with: (a) knowledge that the statement is false; (b) with reckless disregard for the truth of the statement; or (c) with negligence in failing to ascertain the truth of the statement.

27. Treccia’s defamatory statement about Mr. Pagliara has been read by members of the public and unjustly damaged Mr. Pagliara’s reputation. Indeed,

harming Mr. Pagliara's professional reputation was Treccia's goal when he published the defamatory statements quoted in numbered paragraphs 17 through 23 above.

28. As a result of Treccia's statements about him, Mr. Pagliara has sustained economic losses, damage to his reputation, humiliation, and emotional distress.

COUNT II: FALSE LIGHT

29. Plaintiff hereby incorporates by reference the averments set forth in numbered paragraphs 1 through 28 as fully as if set out verbatim.

30. Treccia's statements about Mr. Pagliara quoted above in numbered paragraphs 17 through 23, in addition to or in the alternative to being defamatory, have cast Mr. Pagliara in the false light of being a dishonest person.

31. This false light would be highly offensive to a reasonable person.

32. Treccia has knowledge that he has placed Mr. Pagliara in a false light or has acted with reckless disregard as to the placing of Mr. Pagliara in a false light through his numerous and knowingly false statements. In the alternative, Treccia was negligent in making statements about Mr. Pagliara that placed him in a false light.

33. As a result of defendant's actions, Mr. Pagliara has suffered financial damages, injury to his standing in the community, humiliation, and emotional distress.

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. That the Court issue a temporary and permanent injunction against the defendant enjoining defendant from making further false and defamatory statements concerning the plaintiff;
- B. That the Court award a judgment of compensatory damages against the Defendant in an amount in excess of \$1,000,000.
- C. That the Court award Plaintiff a judgment of punitive damages against Defendant in an amount in excess of \$2,000,000.
- D. That the Court award Plaintiff cost, expenses, and prejudgment interest against Defendant; and
- E. That this Court award such other and further relief as it deems just and equitable.

Respectfully submitted,

s/ Eugene N. Bulso, Jr.

Eugene N. Bulso, Jr. (No. 12005)

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Attorneys for Plaintiff

EXHIBIT 1

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

V.

CAPWEALTH ADVISORS, LLC et al

Defendants.

No. 3:20-cv-1064

VERDICT FORM

We, the jury, unanimously respond as follows:

1. Do you find by a preponderance of the evidence that Timothy J. Pagliara engaged in conduct that operated as a fraud or deceit upon any client in violation of Section 206(2) of the Investment Advisers Act?

Yes__

No ✓

2. Do you find by a preponderance of the evidence that Timothy R. Murphy engaged in conduct that operated as a fraud or deceit upon any client in violation of Section 206(2) of the Investment Advisers Act?

Yes_____

No ✓

3. Do you find by a preponderance of the evidence that CapWealth Advisors, LLC engaged in conduct that operated as a fraud or deceit upon any client in violation of Section 206(2) of the Investment Advisers Act?

Yes

No ✓

4. Do you find by a preponderance of the evidence that CapWealth Advisors, LLC did not adopt and implement written policies and procedures reasonably designed to prevent violation of the Investment Advisers Act in violation of Section 206(4) of the Investment Advisers Act and Rule 206(4)-7 there-under?

Yes___

No ☒



11/1/2022

/ Foreperson

EXHIBIT 2

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

SECURITIES AND EXCHANGE,)	
COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	CASE NO: 3:20-cv-1064
)	
CAPWEALTH ADVISORS, LLC, et al.,)	
)	
Defendants.)	

JUDGMENT IN A CIVIL CASE

✓ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

IT IS ORDERED AND ADJUDGED that the jury found as follows:

- Securities and Exchange Commission did not prove by a preponderance of the evidence that Timothy J. Pagliara engaged in conduct that operated as a fraud or deceit upon any client in violation of Section 206(2) of the Investment Advisers Act.
- Securities and Exchange Commission did not prove by a preponderance of the evidence that Timothy R. Murphy engaged in conduct that operated as a fraud or deceit upon any client in violation of Section 206(2) of the Investment Advisers Act.
- Securities and Exchange Commission did not prove by a preponderance of the evidence that CapWealth Advisors, LLC engaged in conduct that operated as a fraud or deceit upon any client in violation of Section 206(2) of the Investment Advisers Act.
- Securities and Exchange Commission did not prove by a preponderance of the evidence that CapWealth, LLC did not adopt and implement written policies and procedures reasonably designed to prevent violation of the Investment Advisers Act in violation of Section 206(4) of the Investment Advisers Act and Rule 206(4)-7 there under.

PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 58(b)(1)(A) IN ACCORDANCE WITH THE VERDICT OF THE JURY RENDERED ON NOVEMBER 1, 2022, JUDGMENT IS HEREBY ENTERED IN FAVOR OF DEFENDANT CAPWEALTH ADVISORS, LLC et al.

LYNDA HILL, CLERK

BY: *Sharon L. Wilcox*
Deputy Clerk